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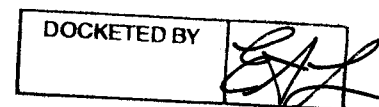
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Chairman Bob Stump
Commissioner Bob Burns
Commissioner Brenda Burns
Commissioner Gary Pierce
Commissioner Susan Bitter Smith
Arizona Corporation Commission
Commissioners Wing
1200 W. Washington - 2nd Floor
Phoenix, AZ 85007

ORIGINAL

Arizona Corporation Commission
DOCKETED

JAN 23 2014



January 23, 2014

RE: Proposed Settlement Agreements

~~Docket Nos. W-02199A-11-0329 and SW-02199A-11-0330 (Pima)~~ and Docket No. WS-02987A-08-0180 (Johnson)

Dear Chairman Stump and Commissioners:

AARP submits the following comments in opposition to the above-referenced settlement agreements. AARP continues to support RUCO's prior objections to the Commission's decision to allow the recovery in rates of personal income taxes of shareholders of utilities organized as S corporations and limited liability corporations (LLC) (in its Motion to Rehear Decision No. 73993 (Pima) and Application for Rehearing of Decision 73992 (Johnson)). However, the proposed settlements not only continue to allow permit charging the water and sewer customers Pima Utility and Johnson Utility the personal income taxes of the owners, but also would substitute a nonpublic review for the Commission's public scrutiny of the validity of this newly claimed "cost of service". As RUCO explained in its motions, this tax treatment may preempt the constitutional requirement that just and reasonable utility rates be established only in the context of a fair value determination of the regulated utility.

To provide for the return of the cost of and a reasonable profit on regulated services, the amount of income taxes included in utility rates should assure that ratepayers do not pay the personal expenses of individuals who are legally separate and distinct taxpayers from the business organization that provides the regulated service. Because the S corporation and LLC owners' income and deductions from the utility operations are combined with other personal income, exemptions and deductions from activities unrelated to the utility operations and the fact there is no explicit tax charged to or paid on the utility income distributed to individual owners of the business, the imputed income tax recovery the regulated utility is attempting to build into utility rates has no relationship to any actual

Robert G. Romasco, President
Addison Barry Rand, Chief Executive Officer

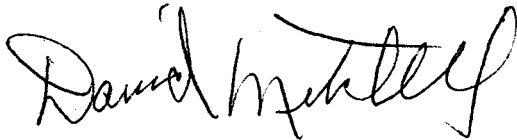
federal or state tax liability incurred and paid by the owners. RUCO characterizes this imputed personal income tax as a "phantom tax" because there is no actual personal tax bill paid to a tax collecting government agency capable of submission to the Commission to support a claim for cost of service. Without an actual tax bill to review, the Commission is left to rely on the private representations of a settlement agreement with undisclosed tax calculations and sources to justify this new cost of service to be charged to ratepayers.

Rather than subject the taxes to Commission scrutiny, the proposed settlement cites an "independent" but undisclosed verification of the Company's actual weighted average tax rate. Such a phantom verification neither cures the unfairness of phantom taxes paid by utility customers nor substitutes for the constitutionally required ratemaking fair value of property determination. With the non-public verification the settlements avoid the normal process of public examination of this newly claimed cost of service. RUCO has previously raised the concern that the proposed settlement agreements fundamentally avoid the constitutional objections raised in RUCO's Pima Motion and Johnson Application by making no reference to the Commission duty to find the fair value of the company's property and use such finding as the rate base for the purpose of calculating just and reasonable rates. In effect, the proposed settlement substitutes the respective private representations of Pima and Johnson with RUCO for the public ratemaking determination of the Commission.

Respectfully, AARP asks that the Commission review once more its imputed income tax policy change, and the settlement agreements claiming the benefits of that change, to the once long-standing policy prohibiting private utility owners from charging their own personal income taxes to their utility customers. AARP believes that consumers should pay fair utility rates determined in the constitutionally required ratemaking process, and not one penny more. This personal income tax charging policy is not fair to consumers and should be reversed, and the settlement of rate cases with a private tax review should not become a substitute private procedure for constitutionally required public ratemaking process.

AARP urges the Commission to reject acceptance of the private settlement agreement as a substitute for constitutionally required ratemaking and urges the Commission to reconsider the recently adopted current policy allowing imputed personal income taxes as a cost of utility service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David Mitchell". The signature is fluid and cursive, with the first name "David" being more prominent than the last name "Mitchell".

David Mitchell
State Director